

FILED

1 Andy Thanh
2 13752 Cypress Street
3 Garden Grove, CA 92843
4 (714) 399-5659
5 andyblueoceanmusic@yahoo.com

2017 JUN -2 PM 3: 12

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY 

Plaintiff In Pro Se

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SACV 17-00953 JVS (KES)

Andy Thanh, an individual;

=) Case No.:

Plaintiffs,

v.

COMPLAINT FOR:

1. DAMAGES;
2. INJUNCTION FOR
COPYRIGHT AND
UNFAIR COMPETITION

Oanh Tran, an individual; Youtube, LLC,
a a limited liability company, and DOES
1 to 10, inclusive,

Defendants

I. JURISDICTION

1. This Court has jurisdiction under the Copyright Act of 1976, 17 U.S.C. Section 101 et seq., for trademark infringement arising under the Lanham Act, 15 U.S.C. 114, for false designation of origin, 15 U.S.C. 1125, Lanham Act Section 43(a) and for unfair methods of competition and unfair or deceptive acts or practices. This Court has jurisdiction of this action under 28 U.S.C. Section 1331, 1338(a) and 1338(b), and under its supplemental jurisdiction.

II. VENUE

2. Venue is proper pursuant to 28 U.S.C. Section 1391 and 1400(a).

See p. 1

No Summary

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III. PARTIES

3. Plaintiff's name is Andy Thanh. Plaintiff resides at 13752 Cypress Street, Garden Grove, CA 92843. Plaintiff is the Manager of Blue Ocean Music, Inc, and is an agent authorized to act on its behalf.

4. Plaintiff is informed and believes, and on that basis alleges, that Defendant Oanh Tran's address is located at D12/80 Trung Kinh, Yen Hoa, Cau Giay, Ha Noi, Ha Noi 10000 Vietnam. Plaintiff is informed and believes that Defendant consents to accept service of process at this address.

5. Plaintiff is informed and believes, and on that basis alleges, that Defendant YouTube, LLC is a limited liability company organized and existing under the laws of the State of Delaware and with its principal place of business at 1000 Cherry Avenue, San Bruno, California 94066 and in this Judicial District.

6. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as Does 1 through 10, are unknown to Plaintiffs, who therefore sue said defendants by such fictitious names (the "Doe Defendants"). Plaintiffs will seek leave of Court to amend this complaint to state their true names and capacities when they have been ascertained. Plaintiffs are informed and believe and on that basis aver that the Doe Defendants are liable to Plaintiffs as a result of their participation in all or some of the acts hereinafter set forth.

IV. STATEMENT OF FACTS

7. Copies of Plaintiffs' copyrighted work was uploaded to YouTube by Oanh Tran, under the uploader Display name "Cai Luong Viet Nam" Channels. Please see attached Exhibit.

1 8. Plaintiffs are currently, and at all relevant times have been, the sole
2 proprietor of all right, title, and interest in and to the copyrights in the above
3 works.

4 9. The above works are copyrighted by Blue Ocean Music and are
5 exclusively distributed by Blue Ocean Music with Mua Hong, Apple Films and
6 Chau Production, as shown in the Contract in the attached Exhibit.

7 10. Defendant Oanh Tran does not have any license, authorization,
8 permission or consent to use the Infringed Works.

9 11. Plaintiff filed a complaint with YouTube in accordance with the
10 United States Digital Millennium Copyright Act ("DMCA") Section 17 U.S.C.
11 512.

12 12. Based on the DMCA Notice, Defendant YouTube removed Plaintiff's
13 copyrighted works from the YouTube website.

14 13. On May 20, 2017 and May 24, 2017, Defendant Tran filed Counter-
15 Notifications.

16
17 **V. CAUSES OF ACTION**

18
19 **FIRST CAUSE OF ACTION**

20 **(Copyright Infringement- 17 U.S.C. Section 101 et seq.)**

21 **(Against all Defendants)**

22 19. Plaintiff alleges again each and every allegation set forth in
23 Paragraphs 1 through 18 inclusive, and incorporates them herein by this reference.

24 20. Defendant Oanh Tran's conduct is a direct copyright infringement of
25 Plaintiffs' works and have infringed Plaintiff's copyrights, and the exclusive rights
26 provided therein by uploading them on YouTube without any consent.
27
28

21. The foregoing acts of infringement by Defendants are willful, intentional, and purposeful and in disregard and of indifference to the rights of Plaintiff.

22. The foregoing acts constitute direct infringement of the exclusive rights in Plaintiff's work.

VI. REQUEST FOR RELIEF

WHEREFORE, the Plaintiff requests:

AS TO ALL CAUSES OF ACTION:

1. YouTube, LLC completely take down all of Plaintiffs' copyrighted works from Cai Luong Viet Nam's Channel from the YouTube site.

2. For a declaration that Defendants' Oanh Tran willfully infringes Plaintiff's copyrights both directly and secondarily;

3. To request Defendant Oanh Tran to present her Driver License and/or Identification that can be associated with her address in Hanoi, Vietnam

4. To request documentation and/or a license of Cai Luong Viet Nam's registered company in Vietnam, if one should exist.

5. For Plaintiffs' costs and \$10,000 claim for relief for each work title.

Dated: June 2, 2017

Andy Thanh





Andy Thanh <andyblueoceanmusic@gmail.com>

Re: [9-1652000017349] New Copyright Counter-Notification

4 messages

YouTube <copyright@youtube.com>

Sat, May 20, 2017 at 9:04 PM

To: andyblueoceanmusic@gmail.com



We received the attached counter notification in response to a complaint you filed with us.

We're providing you with the counter notification and await evidence (in not more than 10 business days) that you've filed an action seeking a court order against the counter notifier to restrain the allegedly infringing activity. In most cases, such evidence would include a lawsuit against the uploader who filed the counter notification, which names the specific YouTube URL(s) at issue.

If we don't receive notice from you, we may reinstate the material to YouTube.

If you have any questions, please contact copyright@youtube.com.

Counter-Notification as follows:

Videos included in counter-notification:

- http://www.youtube.com/watch?v=e_d4VGQ6HOg
- <http://www.youtube.com/watch?v=aW57EzTsBsA>
- <http://www.youtube.com/watch?v=VheUaZlkkyM>
- <http://www.youtube.com/watch?v=ybgxnMvtJTo>
- http://www.youtube.com/watch?v=h8V_hz7qvDM
- <http://www.youtube.com/watch?v=Es1qtixJluc>
- <http://www.youtube.com/watch?v=82ovzXSOFH4>
- <http://www.youtube.com/watch?v=Fsg8hycO0II>
- <http://www.youtube.com/watch?v=wSRvlgLDjc>
- http://www.youtube.com/watch?v=aNLXTD7_7w8

Display name of uploader: **Cải Lương Việt Nam**

We obtained the licenses to upload and use the content of this video on our YouTube channel under the grant agreement n° 0508/2017/BHMedia-MHP signed on May 08th, 2017. I have a good faith belief that the complaint of copyright violation is based on mistaken information or misidentification of the material in question. I therefore request that the material be no longer disabled.

I swear, under penalty of perjury, that I have a good faith belief the material was removed due to a mistake or misidentification of the material to be removed or disabled.

I consent to the jurisdiction of the Federal District Court for the district in which my address is located, or if my address is outside of the United States, the judicial district in which YouTube is located, and will accept service of process from the claimant.

Oanh Tran

D12/80 Trung Kinh, Yen Hoa, Cau Giay

Ha Noi, Ha Noi 10000 VN

[Help center](#) • [Email options](#) • [Report spam](#)

©2017 YouTube, LLC 901 Cherry Ave, San Bruno, CA 94066, USA

YouTube <copyright@youtube.com>
To: andyblueoceanmusic@gmail.com

Wed, May 24, 2017 at 8:50 PM



We received the attached counter notification in response to a complaint you filed with us.

We're providing you with the counter notification and await evidence (in not more than 10 business days) that you've filed an action seeking a court order against the counter notifier to restrain the allegedly infringing activity. In most cases, such evidence would include a lawsuit against the uploader who filed the counter notification, which names the specific YouTube URL(s) at issue.

If we don't receive notice from you, we may reinstate the material to YouTube.

If you have any questions, please contact copyright@youtube.com.

Counter-Notification as follows:

Videos included in counter-notification:

- <http://www.youtube.com/watch?v=U-9bxD5x7vU>
- <http://www.youtube.com/watch?v=C9nSEdXYocs>
- <http://www.youtube.com/watch?v=MVISZdO7jsQ>
- <http://www.youtube.com/watch?v=BOvOioTFce0>
- <http://www.youtube.com/watch?v=544ojlu9Gnc>
- http://www.youtube.com/watch?v=gAHYfhNA_YE
- <http://www.youtube.com/watch?v=SFfbAJ2r9e4>
- http://www.youtube.com/watch?v=_v3JL5LMrps
- <http://www.youtube.com/watch?v=ewzgPnjwtAE>

Display name of uploader: **Cải Lương Việt Nam**

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I consent to the jurisdiction of the Federal District Court for the district in which my address is located, or if my address is outside of the United States, the judicial district in which YouTube is located, and will accept service of process from the claimant.

Oanh Tran

D12/80 Trung Kinh, Yen Hoa, Cau Giay

Ha Noi, Ha Noi 10000 VN

BẢN HỢP ĐỒNG

BÊN A: Blue Ocean Music/Andy Thanh
13752 Cypress St Garden Grove
714-856-9733 (Hand) 800-311-9951 or 714-399-5659 Business

BÊN B : Tuyết Trân/Mưa Hồng & Apple Films
9531 Bolsa Ave Wesminster, CA 92683
714-531-7692 or 714-915-8847 Hand

1. Bên B (Apple Films) cho phép bên A (Blue Ocean Music) toàn quyền sử dụng độc quyền những sản phẩm DVD, Video, CD sản xuất của trung tâm Mưa Hồng/Apple Films trên hệ thống mạng lưới toàn cầu, trên youtube channel và được phép sử dụng trên hệ thống truyền hình VBS 57.6 Southern California. Những DVD Cải Lương, Hải Kịch, Ca Nhạc, Tân Cổ sẽ được liệt kê trong List A, B, C, D, E... và tiếp tục được cung cấp bởi trung tâm Mưa Hồng/Apple Films

2. Bên B (Blue Ocean Music) sẽ chịu trách nhiệm phần chi phí Adminstration, Technical Labor, Mastering.

3. Bên B (Blue Ocean Music) sẽ trả tiền hàng tháng cho bên A (Apple Films) theo schedule A, và số tiền được trả cũng theo cách tính bên schedule A.

4. Hợp Đồng này có giá trị 10 năm sau khi ký tên, và sẽ tự tiếp tục cứ mỗi 5 năm nếu không có sự hủy hợp đồng giữa 2 bên. Trong trường hợp hủy hợp đồng, cả 2 bên cần phải được thông báo tối thiểu 90 ngày.

Chữ ký

Bên A - Andy Thanh Blue Ocean Music

Ngày 11/17/15

Chữ Ký

Bên B Chi Tuyet - Apple Films

Ngày

11/17/15

BẢN HỢP ĐỒNG B

BÊN A: Blue Ocean Music/Andy Thanh
13752 Cypress St Garden Grove
714-856-9733 (Hand) 800-311-9951 or 714-399-5659 Business

BÊN B: Châu Production/Cô Châu
11432 Jola Ave
Garden Grove, Ca 92843
714-902-8494

1. Bên B (Châu Production) cho phép bên A (Blue Ocean Music) toàn quyền sử dụng những sản phẩm Phóng Sự, Ký Sự DVD, Video sản xuất của Châu Production trên hệ thống mạng lưới toàn cầu, trên youtube. Cũng như độc quyền phát hình trên hệ thống truyền hình VBS TV 57.6 Southern California, và hệ thống Galaxy.
2. Bên A (Blue Ocean Music) sẽ trả cho Bên B (Châu Production) cho phần sử dụng trên đài VBS TV 57.3 trong vòng 3 năm theo schedule B, và phần tiền còn lại tiếp tục tính theo schedule A, Bản Hợp Đồng A.
3. Hợp Đồng này có giá trị 3 năm sau khi ký tên để hệ thống truyền hình VBS sử dụng trên làn sóng 57.6 và hệ thống Galaxy.
4. Blue Ocean Music được quyền tiếp tục sử dụng những sản phẩm phóng sự, ký sự trên mạng lưới toàn cầu và youtube theo Bản Hợp Đồng B sau 3 năm và áp dụng điều kiện của bản hợp đồng A, và tiếp tục trả tiền theo schedule A.

Chữ ký Andy Thanh
Bên A - Andy Thanh Blue Ocean Music
Ngày 3/6/2017

Chữ Ký Chau Production
Bên B Châu Production
Ngày 3/6/2017

BẢN HỢP ĐỒNG A

BÊN A: Blue Ocean Music/Andy Thanh
13752 Cypress St Garden Grove
714-856-9733 (Hand) 800-311-9951 or 714-399-5659 Business

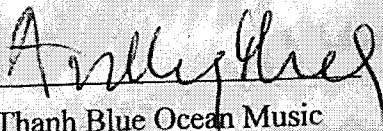
BÊN B : Châu Production/Cô Châu
11432 Jola Ave
Garden Grove, Ca 92843
714-902-8494

1. Bên B (Châu Production) cho phép bên A (Blue Ocean Music) toàn quyền sử dụng những sản phẩm DVD, Video sản xuất của Châu Production trên hệ thống mạng lưới toàn cầu, trên youtube.. Những DVD, Video Cải Lương, Hải Kịch, Ca Nhạc, Tân Cổ sẽ được liệt kê trong List A, B, C và sẽ được tiếp tục cung cấp những sản phẩm mới của Châu Production.
2. Bên A (Blue Ocean Music) sẽ chịu trách nhiệm phần chi phí Adminstration, Technical Labor, Mastering.
3. Bên A (Blue Ocean Music) sẽ trả tiền hàng tháng cho bên B (Châu Production) theo schedule A, và số tiền được trả cũng theo cách tính bên schedule A.
4. Hợp Đồng này có giá trị 10 năm sau khi ký tên, và sẽ tiếp tục cứ mỗi 5 năm nếu không có sự hủy hợp đồng giữa 2 bên. Trong trường hợp hủy hợp đồng, cả 2 bên cần phải được thông báo tối thiểu 90 ngày.

Chữ ký

Bên A - Andy Thanh Blue Ocean Music


Ngày


2/27/16

Chữ Ký

Bên B Châu Production

Ngày


2/27/16



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form PA
 For a Work of Performing Arts
 UNITED STATES COPYRIGHT OFFICE

PA 1-332-511



EFFECTIVE DATE OF REGISTRATION

6 5 2006
 Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

HÃY NGŨ YÊN NIÊM ĐAU

PREVIOUS OR ALTERNATIVE TITLES ▼

N/A

NATURE OF THIS WORK ▼ See instructions

VIETNAMESE MUSIC PROGRAM

2

NAME OF AUTHOR ▼

a HAU DZONG dba BLUE OCEAN MUSIC

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
 Name of Country

OR Citizen of UNITED STATES
 Domiciled in

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

MOTION PICTURE AND MUSIC (VIETNAMESE TRADITIONAL)

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
 Name of Country

OR Citizen of
 Domiciled in

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DATES OF BIRTH AND DEATH
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☐ No

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 Name of Country

OR Citizen of
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 Pseudonymous? ☐ Yes ☐ No

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NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2005

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Month 08 Day 01 Year 2005

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

HAU DZONG dba BLUE OCEAN MUSIC
 9550 Bolsa Ave, # 128
 Westminster, CA 92683

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

NOTICE RECEIVED
 JUN 05 2006

ONE REPORT RECEIVED
 JUN 05 2006

DVD/D

DO NOT WRITE HERE
 OFFICE USE ONLY

FUNDS RECEIVED

See instructions before completing this space.